

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF:	:	EB Docket No.
	:	11-71
MARITIME COMMUNICATIONS /	:	
LAND MOBILE, LLC	:	File No.
	:	EB-09-IH-1751
Participant in Auction No.	:	
61 and Licensee of Various	:	FRN:
Authorizations in the	:	0013587779
Wireless Radio Services	:	
	:	Application
Applicant for Modification	:	File Nos.
of Various Authorizations in	:	0004030479,
the Wireless Radio Services	:	0004193028,
	:	0004193328,
Applicant with ENCANA OIL	:	0004354053,
AND GAS (USA), INC.; DUQUESNE	:	0004309872,
LIGHT COMPANY, DCP MIDSTREAM,	:	0004310060,
LP; JACKSON COUNTY RURAL	:	0004314903,
MEMBERSHIP ELECTRIC	:	0004315013,
COOPERATIVE; PUGET SOUND	:	0004430505,
ENERGY, INC.; ENBRIDGE ENERGY	:	0004417199,
COMPANY, INC.; INTERSTATE	:	0004419431,
POWER AND LIGHT COMPANY;	:	0004422320,
WISCONSIN POWER AND LIGHT	:	0004422329,
COMPANY; DIXIE ELECTRIC	:	0004507921,
MEMBERSHIP CORPORATION, INC.;	:	0004526264,
and ATLAS PIPELINE-MID	:	and
CONTINENT, LLC;	:	0004604962
	:	
For Commission Consent to	:	
the Assignment of Various	:	
Authorizations in the	:	
Wireless Radio Service	:	DOCKET FILE COPY ORIGINAL

Thursday,
December 11, 2014

VOLUME 13

Courtroom TWA-363
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 a.m.

BEFORE:

RICHARD L. SIPPEL,
Chief Administrative Law Judge

APPEARANCES:

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ALSO PRESENT:

AUSTIN RANDAZZO, Attorney Advisor, Office of
Administrative Law Judges

INDEX

Opening Statements

None

Closing Statement

None

WITNESS

DIRECT CROSS REDIRECT RECROSS

Lee Pillar

1658

By Mr. Stegner

1661

EXHIBITS

Bench

Identified

Received

Rejected

3

1650

Hearing Began: 10:05 a.m. Hearing Ended: 4:28 p.m.

P-R-O-C-E-E-D-I-N-G-S

(10:01 a.m.)

JUDGE SIPPEL: All participants are present with the exception of Mr. Havens this morning. I won't bother taking roll call. But, Mr. Stenger, first order of business I asked you a question off the record as to whether or not Mr. Calabrese was going to be here to testify today.

MR. STENGER: Well, let me explain that Mr. Calabrese is a small --

JUDGE SIPPEL: Can you give me a yes or no up front and then you can explain? Is that in your --

MR. STENGER: Mr. Calabrese is probably not going to appear, is reluctant to appear here, Your Honor, for reasons that I'd like to explain.

JUDGE SIPPEL: Well, you can explain the reason, but he's not going to be here?

MR. STENGER: I don't know his whereabouts as I sit here, Your Honor. So I cannot --

JUDGE SIPPEL: Well, I told you --

MR. STENGER: I cannot say with certainty whether he's going to be here or not.

JUDGE SIPPEL: I told you yesterday that I had to be told at 10 o'clock this morning. I told you that on the record yesterday. And, since you don't know where he is, and he's reluctant to be here, you've indicated reluctance, I want him off

1 the witness list.

2 So do you want to contact Mr. Calabrese now? We'll go
3 off the record. You can give him a call and tell him you're not
4 coming in. He's not needed as a witness.

5 MR. STENGER: Am I supposed to respond to that order?

6 JUDGE SIPPEL: You certainly are. You said you don't
7 know where he is.

8 MR. STENGER: That's true, Your Honor. I don't.

9 JUDGE SIPPEL: Well, get on the phone and find out where
10 he is.

11 MR. STENGER: Can I state my --

12 JUDGE SIPPEL: Yes. Go ahead.

13 MR. STENGER: -- objection on the record?

14 JUDGE SIPPEL: Yes, you can.

15 MR. STENGER: Just for, you know, for having it on the
16 record.

17 JUDGE SIPPEL: For record purposes.

18 MR. STENGER: Mr. Calabrese is a small businessman.

19 JUDGE SIPPEL: Not too -- yes.

20 MR. STENGER: No. It's not going to be long.

21 JUDGE SIPPEL: Okay. Thank you.

22 MR. STENGER: He installs radio equipment. The times
23 that I worked with him on his statement, he was on a cell phone in
24 his van. He faxed me his statement from a motel fax machine. He
25 doesn't have the wherewithal to defend himself in lawsuits and

1 criminal actions from Maritime.

2 JUDGE SIPPEL: He's not being sued here.

3 MR. STENGER: He has been sued by Maritime.

4 JUDGE SIPPEL: Well, he's not being sued in this case.

5 As I hear, you're a witness; I don't care if he's sued. That's not
6 my problem; that's his problem.

7 MR. STENGER: Okay. I just -- I have --

8 JUDGE SIPPEL: Is he being sued right now?

9 MR. STENGER: What I was told is --

10 JUDGE SIPPEL: Is he being sued now?

11 MR. STENGER: Your Honor, I don't know.

12 JUDGE SIPPEL: Well, then what --

13 MR. STENGER: He's been sued.

14 JUDGE SIPPEL: Then why are you telling me that for?

15 What purpose can you possibly have in telling me that information?

16 I don't --

17 MR. STENGER: I believe there was some kind --

18 JUDGE SIPPEL: This is a witness.

19 MR. STENGER: I believe there was some kind of injunction
20 in that case, but I don't --

21 JUDGE SIPPEL: Is he enjoined from coming here?

22 MR. STENGER: My understanding from talking to him is

23 that there was some kind of civil injunction preventing him from

24 talking about Maritime but he was willing to brave that. But then

25 there was some sort of --

1 JUDGE SIPPEL: You didn't get a copy of that Order by any
2 chance, did you?

3 MR. STENGER: I don't recall, Your Honor. I didn't
4 attach it to his testimony.

5 JUDGE SIPPEL: I have a hard time believing that.

6 MR. STENGER: Okay. Well, here is --

7 JUDGE SIPPEL: There are so many stories that are not
8 verified.

9 MR. STENGER: Yes.

10 JUDGE SIPPEL: Yes. Okay.

11 MR. STENGER: Well, here's the rest of my statement.
12 Okay? I've sat here for two days. My client's --

13 JUDGE SIPPEL: That's not relevant.

14 MR. STENGER: -- paid me to sit here for two days.

15 JUDGE SIPPEL: That's not relevant.

16 MR. STENGER: And the only evidence --

17 JUDGE SIPPEL: Did I tell you something is not relevant?

18 MR. STENGER: I'm moving on.

19 JUDGE SIPPEL: You sitting here for two days --

20 MR. STENGER: I'm moving on to another point. The only
21 evidence --

22 MS. KANE: Your Honor, we'd like to respond to --

23 MR. STENGER: May I finish my statement, please? The
24 only evidence that's been put in the record by the other parties is
25 two declarations --

1 JUDGE SIPPEL: That's irrelevant.

2 MR. STENGER: -- with zero exhibits.

3 JUDGE SIPPEL: I'm going to sustain the objection. This
4 is not doing anything to get us forward. It's like the quarterback
5 that can't let the ball go. What are you doing? You're not doing
6 anything.

7 MR. STENGER: I'm asking you why his declaration can't be
8 accepted without him appearing, in the same manner as Enforcement
9 Bureau Exhibits 49 and 50, the two declaration from the two
10 engineers who visited 2 of the 16 sites, which is the only two
11 pieces of evidence that have been --

12 JUDGE SIPPEL: That's an awfully long question.

13 MR. STENGER: They've put in, in two days. I wasn't
14 allowed to cross examine either one of those two engineers. So why
15 does Mr. Calabrese have to run the risk of coming in here and why
16 can't his declaration go in the record, just like their declaration
17 does?

18 JUDGE SIPPEL: I'll tell you why. Because there was no
19 objection to the declaration coming in, number one. Number two,
20 there was all kinds of opportunities to depose those two people
21 going way back when a year ago, when discovery started in this
22 case.

23 You're a Johnny-come-lately. You don't -- you're at a
24 big disadvantage. I didn't put you there but you're at a big
25 disadvantage. And, unless you're meeting together with the former

1 counsel, that would be interesting, because they could tell you a
2 heck of a lot about what's going on in this case. But you're
3 basically unprepared. Not your fault, but you're unprepared.

4 MR. STENGER: I don't think I'm unprepared, Your Honor.
5 We've put in a declaration from Mr. Calabrese. They've put in two
6 pieces of evidence in two days: two declarations from two engineers
7 who didn't appear.

8 MS. KANE: Your Honor, it's not a declaration. It's in
9 lieu of live testimony. That's what it is. It's a written direct
10 testimony. They've made an assertion here that this was going to
11 be their witness and they should have done their due diligence in
12 preparing him to be here today. We all prepared for this.

13 MR. STENGER: Now I'm asking to convert his written
14 testimony into a declaration and have you accept it in the same
15 manner that you accepted their two declarations.

16 (Simultaneous speaking)

17 MS. KANE: Well, Your Honor, their statements, they're
18 exactly as written in their testimony.

19 JUDGE SIPPEL: Just a second.

20 MR. STENGER: I didn't strike it.

21 JUDGE SIPPEL: Wait just a second. Wait just a second.
22 The whole purpose for written testimony is so that you have a
23 standard, a basis, a fact basis upon which to cross examine the
24 witness. That's the whole purpose of that. You're mixing apples
25 with oranges.

1 MR. STENGER: You've accepted other declarations.

2 JUDGE SIPPEL: You haven't objected to them. What am I
3 going to do if you don't object?

4 MR. STENGER: Well, if you're striking my client's
5 declaration, then I am objecting their declaration.

6 JUDGE SIPPEL: Well, you're not going to do it for that
7 reason.

8 MR. STENGER: I'm moving to strike their two declarations
9 from their two engineers.

10 JUDGE SIPPEL: Forget about it. Forget about it. You
11 missed your opportunity. I told you. You --

12 MR. STENGER: I haven't missed an opportunity because
13 it's not apparent to me until right now that you're not going to
14 accept my client's statement as a declaration.

15 JUDGE SIPPEL: All you had to do is bring Mr. Calabrese
16 in and he can --

17 MR. STENGER: They didn't bring their engineers in.

18 JUDGE SIPPEL: They didn't have to.

19 MR. STENGER: Why not?

20 JUDGE SIPPEL: No one objected. You didn't object. You
21 didn't ask to take their depositions. You didn't do anything with
22 those engineers. You didn't do it.

23 MR. STENGER: Maybe I'm happy to have their --

24 JUDGE SIPPEL: You didn't do it. I don't care how happy
25 you are. This is not a happiness court. I don't know what the

1 heck is going on here.

2 MR. STENGER: What's going on is that I'm requesting that
3 you accept my witness's testimony as a declaration, in the same
4 manner that you've accepted the only two pieces of evidence that
5 they've produced in two days, which is Enforcement Bureau Exhibits
6 49 and 50, which are declarations from two engineers that didn't
7 appear.

8 JUDGE SIPPEL: I know what they are. I know what they
9 are.

10 MR. STENGER: Who didn't appear.

11 JUDGE SIPPEL: All I can tell you is, no way, Jose. It
12 isn't going to happen. It's not happening, not in my court. And
13 I'll tell you, you keep pushing on this and --

14 MR. STENGER: I've made my statement, Your Honor. I'm
15 not going to push on it. I made my statement.

16 JUDGE SIPPEL: You've been pushing. I feel I'm being
17 pushed. All right. Is that all the business we have with
18 Calabrese? Because he's out?; he's not going to be heard.

19 MS. KANE: Your Honor, we do -- and we --

20 JUDGE SIPPEL: Does anybody else have a position on
21 Calabrese before we move on to something else?

22 MS. KANE: Well --

23 JUDGE SIPPEL: This angle's already been said.

24 MS. KANE: Yes. We do have an issue with Mr. Calabrese.
25 Although we agree that he should -- his testimony should be

1 stricken from the record.

2 JUDGE SIPPEL: He's not here.

3 MS. KANE: No. I understand. And we understand that his
4 written direct testimony should be stricken from the record.

5 JUDGE SIPPEL: It hasn't been offered into evidence yet.
6 He hasn't identified his signature. I don't know --

7 (Simultaneous speaking)

8 MS. KANE: But it's been admitted. So we ask that it be
9 stricken from the record, as a first step, Your Honor, because he's
10 not appearing live and cannot be cross examined.

11 JUDGE SIPPEL: Let me just hold that in abeyance for a
12 minute. Now, certainly, if it's stricken, even if it's going to
13 stay with the record so it can go off on appeal, but it's not going
14 to be considered as evidence, if that's what the ruling is. But
15 I got to hear it from Mr. Stenger.

16 MS. KANE: Well, Your Honor, you struck Mr. Thackeray for
17 the same reason. He wouldn't be able to appear here in person. I
18 believe you issued an order striking his testimony.

19 MR. STENGER: You withdrew his testimony. No one struck
20 anything. You withdrew Mr. Thackeray's testimony by your own
21 voluntary decision to do so. I'm not withdrawing Mr. Calabrese's
22 testimony.

23 JUDGE SIPPEL: Let me tell you something, Mr. Stenger.

24 MR. STENGER: I'm sorry. Excuse me, Your Honor.

25 JUDGE SIPPEL: You address it to me.

1 MR. STENGER: I'm sorry, Your Honor.

2 JUDGE SIPPEL: You address me. You don't --

3 MR. STENGER: You're right.

4 JUDGE SIPPEL: Please don't talk to opposing counsel.

5 Let me ask you this. Let's finish up with Mr. Calabrese, first.

6 Okay? Do you have anything more on Mr. Calabrese?

7 MS. KANE: We do, Your Honor. We do want to proffer the
8 record and put on the record that we received an email last night.
9 And I believe there was an ex parte communication to your office as
10 well from Mr. Havens accusing the Bureau, inappropriately, of
11 threatening Mr. Calabrese --

12 MR. STENGER: I did not.

13 MS. KANE: -- and intimidating Mr. Calabrese, accusing
14 the Bureau and specifically Mr. Engel and myself of violating
15 various federal rules, Rule 11, all kinds of accusations and
16 allegations that we -- that Mr. Havens is going to bring us up on
17 criminal charges.

18 MR. STENGER: Oh, come on.

19 JUDGE SIPPEL: Let me just --

20 MS. KANE: Excuse me, Your Honor.

21 JUDGE SIPPEL: All right. Hold on just a second, Ms.

22 Kane. Let me be sure we're talking about the same thing. I've got
23 with me right here -- I hand carried it down, a three-page -- or is
24 it four pages --

25 MS. KANE: It's several pages.

1 JUDGE SIPPEL: -- four-page email -- a copy of a four-
2 page email from Mr. Havens or it's from -- eitt lif koma nu. But
3 it's warren.havens@sbcglobal.net, Thursday, December 11th, which is
4 today, 9:17 a.m. Now, without going further into it, does that
5 sound like I got the right document?

6 MS. KANE: It is the right document, Your Honor.

7 JUDGE SIPPEL: Okay. It's the same thing you received?

8 MS. KANE: Yes, Your Honor.

9 JUDGE SIPPEL: And the same thing you're complaining
10 about this morning?

11 MS. KANE: We are, Your Honor, because we never did
12 anything to threaten Mr. Calabrese. We did not raise any issues.
13 We have not tried to contact him. There's all sort of accusations
14 --

15 JUDGE SIPPEL: Well, you don't have to -- wait. You
16 don't have to defend yourself.

17 MS. KANE: No. I understand. Actually, I believe we do,
18 Your Honor, because there are accusations in here that the Bureau
19 has acted inappropriately and that we have somehow impeded Mr.
20 Havens' ability to act as a party in this case. And we vehemently
21 oppose that.

22 JUDGE SIPPEL: Well --

23 MS. KANE: What we have done in this case is properly
24 object to frivolous of unauthorized motions and to questions that
25 have been posed to witnesses that are outside the rules of

1 evidence. We have not attacked Mr. Havens, personally. We have
2 not attacked his companies, personally.

3 And, yet, we have been receiving, on multiple occasions,
4 this is not the first of them, many emails from Mr. Havens
5 personally attacking the Bureau and attacking Mr. Engel and me,
6 personally. And now he's accusing us of violating federal law. I
7 take that personally, Your Honor.

8 And, if Mr. Havens is going to be allowed to continue to
9 act pro se, we ask Your Honor for some sort of directives on how he
10 should proceed and how he should behave himself before these
11 proceedings because this is getting now -- this is becoming such a
12 circus on the outside of this proceeding. We now may be facing the
13 accusations before the Office of an Inspector General.

14 MR. STENGER: If I may, Your Honor, also --

15 JUDGE SIPPEL: Wait a minute. I just want to let her
16 vent for herself. I appreciate everything you just said. I do.
17 But my first job here is, as the proceeding starts, to take
18 attendance. Mr. Havens just came in the door. Well, he came in
19 about two minutes ago. Correct? Good morning, Mr. Havens. Good
20 morning, sir.

21 MR. HAVENS: I'm here. Thank you.

22 JUDGE SIPPEL: All right.

23 MR. KIRK: If I may, Your Honor?

24 JUDGE SIPPEL: Mr. Kirk?

25 MR. KIRK: I just want to point out I agree with the

1 Enforcement Bureau. I would urge you to set some ground rules.
2 This is the first hearing but there's going to be a second hearing.
3 And I think it would be very helpful not to have to deal with this
4 nonsense at the second hearing.

5 JUDGE SIPPEL: Well, I have my own ideas about that. But
6 I understand your feelings and your frustration. I'd rather think
7 through very carefully -- maybe, perhaps, I would ask for an
8 opportunity for the parties to give me some suggestions.

9 And, since this is going to be the last day we're in the
10 courtroom on this phase of the case, I hope, we'll take it up under
11 advisement, and I'll do my best to control things today. I don't
12 want to spend too much more time on this.

13 MS. KANE: We understand, Your Honor. We just --

14 JUDGE SIPPEL: I understand your feelings.

15 MS. KANE: We just wanted it to be on the record, Your
16 Honor, that this -- that, you know, that we believe we have acted
17 entirely appropriately here. We have not acted outside the bounds
18 of FCC law or federal law and, you know, we have acted
19 appropriately in objecting. We have not been abusive in that
20 process, we do not believe. And we should not be having to
21 sustain, you know, multiple emails accusing us of improperly trying
22 to impede Mr. Havens' participation in this proceeding.

23 JUDGE SIPPEL: All right. Well, you've got one that
24 you've focused on and I'm going to have that marked as Bench
25 Exhibit Number 3 and we'll put it in the record. Is that all right

1 with you, because I'm looking for some basis upon which you're
2 making these statements that's evidence.

3 (Whereupon, the above-referred to document was received
4 into evidence as Bench Exhibit No. 3.)

5 MS. KANE: That's fine with us, Your Honor.

6 JUDGE SIPPEL: Demonstrative evidence. It's not relevant
7 evidence to Issue G.

8 MS. KANE: Since our statements are on the record, I'm
9 fine with his accusations being on the record.

10 JUDGE SIPPEL: It's only for the purpose of putting it in
11 so that you can compare your arguments or your points against
12 what's here. Otherwise, it's way too long to talk about it.

13 MR. STENGER: I believe the record will reflect that Mr.
14 Engel stated yesterday that Mr. Calabrese threatened three of his
15 witnesses. And I would like to have the documentation for that put
16 in the record.

17 JUDGE SIPPEL: Well, you said yesterday, I believe it was
18 you that said that Mr. Calabrese might not be here as a witness.
19 And you didn't produce a bit of documentation on that.

20 MR. STENGER: Well, no, I didn't.

21 JUDGE SIPPEL: No.

22 MR. ENGEL: Your Honor, I think that's an irrelevant
23 point now. It's not even a -- that individual's not even relevant
24 to this case. He's struck from the case.

25 JUDGE SIPPEL: That's true. That's true. Ms. Kane's

1 right.

2 MR. ENGEL: I what I did say, Your Honor, is I have it on
3 good faith. I received information from another counsel in this
4 case regarding that information. I did not have firsthand
5 information about any of that, Your Honor. That's quite clearly
6 what I said.

7 MR. STENGER: You said that my witness threatened --

8 JUDGE SIPPEL: Don't talk to him. You talk to me.

9 MR. STENGER: My recollection is he said that my witness
10 threatened three of his witnesses and he opened up a folder and put
11 it up there on the desk and said, I have all these documents. I
12 don't have those documents.

13 JUDGE SIPPEL: That's not true. I was in this courtroom
14 and he never said that.

15 MR. STENGER: Can you -- where's the folder with the
16 stuff?

17 JUDGE SIPPEL: Well, you've got imaginary folders. You
18 produce it. He doesn't have to produce --

19 MR. STENGER: He said, I wasn't going to bring this up
20 but I have this folder full of documents about your witness --

21 MS. KANE: Your Honor, now he's just completely --

22 (Simultaneous speaking)

23 JUDGE SIPPEL: Man --

24 MR. ENGEL: I've never said that.

25 JUDGE SIPPEL: I don't have --

1 MR. ENGEL: That's on the record.

2 JUDGE SIPPEL: I don't have a recollection of it. My
3 short-term memory is pretty darn good, believe it or not, which
4 isn't supposed to happen but it does. Okay. Where are we going to
5 go from here?

6 MS. KANE: Your Honor, we go to --

7 MR. HAVENS: I would like -- I've been accused. I would
8 like to say something.

9 JUDGE SIPPEL: You haven't been accused. She's just
10 simply reporting --

11 MR. HAVENS: She did accuse me.

12 JUDGE SIPPEL: She's -- wait a minute. She's factually
13 reporting what was in your email.

14 MR. HAVENS: She is characterizing it.

15 JUDGE SIPPEL: Well, what she's characterizing is flat
16 out, it's straight out in the English language.

17 MR. HAVENS: It's not straight out.

18 JUDGE SIPPEL: There's nothing --

19 MR. HAVENS: It is not straight out.

20 JUDGE SIPPEL: There's nothing sorry about this.

21 MR. HAVENS: She didn't read from my email. She
22 characterized it and I dispute.

23 JUDGE SIPPEL: You've got that you intend to pursue
24 economic and other remedies.

25 MR. HAVENS: This is all --

1 JUDGE SIPPEL: This is further notice of that.

2 MR. HAVENS: It is conditional, Your Honor.

3 JUDGE SIPPEL: Yes. The heck it is. The heck it is.

4 MR. HAVENS: I'm asking Mr. Engel in this email nothing
5 more at this time than to produce the information he referred to
6 yesterday. I'm asking for it because I don't -- because Mr.
7 Reardon does have a record showing court cases and Mr. DePriest of
8 taking legal action against Mr. Calabrese and against the other
9 witness that we wanted to bring here, Peter Harmer. Those are in
10 court records. I gave him the links. I said I have credible
11 evidence that --

12 JUDGE SIPPEL: You said that? You said what? You said
13 you have credible evidence?

14 MR. HAVENS: It's in the document, Your Honor.

15 JUDGE SIPPEL: What document?

16 MR. HAVENS: My only statement here --

17 JUDGE SIPPEL: In your email?

18 MR. HAVENS: My only statement here, Your Honor.

19 JUDGE SIPPEL: Yes, it's a big statement.

20 MR. HAVENS: It is in --

21 JUDGE SIPPEL: Four pages.

22 MR. HAVENS: It is exactly what it says.

23 JUDGE SIPPEL: It is what it is. I know. So that's all.
24 So let's stop talking then. Mr. Havens, your document speaks for
25 itself.

1 MR. HAVENS: It certainly does, Your Honor.

2 JUDGE SIPPEL: Then that's the end of the argument.

3 MR. HAVENS: I'm not arguing; I'm making a statement.

4 JUDGE SIPPEL: End of the discussion.

5 MR. HAVENS: I'm making a statement on the record that
6 Ms. Kane's assertion against me is false. And you can compare that
7 or the Court can compare that against what she's said today. All
8 right?

9 JUDGE SIPPEL: Well, I've read this material and I don't
10 think her representation is "false."

11 MR. HAVENS: I do, Your Honor. I do.

12 JUDGE SIPPEL: Let me finish. You can quibble with it.

13 MR. HAVENS: I'm not quibbling.

14 JUDGE SIPPEL: I don't find anything that she said false.

15 MR. HAVENS: Well, then we disagree, Your Honor. And
16 you're the Judge.

17 JUDGE SIPPEL: Well, I think you're insulting her,
18 though. That's the whole point. If it's not a false --

19 MR. HAVENS: All right.

20 JUDGE SIPPEL: If it's clearly not a false statement --

21 MR. HAVENS: I say her --

22 JUDGE SIPPEL: -- she's being maligned and insulted.

23 MR. HAVENS: I don't agree, Your Honor.

24 JUDGE SIPPEL: Well, I certainly do.

25 MR. HAVENS: All right. Then we disagree.

1 JUDGE SIPPEL: You're the one saying we do.

2 MR. HAVENS: And, if you want to bring in my personal
3 communications --

4 JUDGE SIPPEL: And that's the end of it. End of it,
5 period. You say one more thing, you take a walk.

6 MR. HAVENS: I'm taking a walk.

7 JUDGE SIPPEL: Go take a walk. You can come back anytime
8 you cool off. Go take a walk.

9 MR. HAVENS: Then I'll stay here. You want to kick me
10 out, go ahead.

11 JUDGE SIPPEL: I'm not kicking you out. I just want you
12 out of here to cool off.

13 MR. HAVENS: I'm cooled off.

14 JUDGE SIPPEL: You're disrupting us; I want you to cool
15 off.

16 MR. HAVENS: You're telling me to go and cool off.

17 JUDGE SIPPEL: Yes.

18 MR. HAVENS: How long do you want me to stay out, Judge.

19 JUDGE SIPPEL: Will you please sit there and cool off and
20 don't talk? All right. What do you we now?

21 MS. KANE: Your Honor, we would like to move to strike
22 all of EVH's pending exhibits, since they have no further
23 witnesses, and, certainly, with regard to Mr. Reardon and Mr.
24 Calabrese's pending exhibits. And I can point to the specific
25 names. But they have no further witnesses. So we'd like to move

1 to strike all those exhibits. They were pending, I think, based on
2 rulings that you would make at the hearing. And they're --

3 JUDGE SIPPEL: Oh, I see what you're saying. Well, let's
4 wait until we finish up with your side of the case before I do
5 that. Okay?

6 MS. KANE: Okay, Your Honor.

7 JUDGE SIPPEL: But I am going to strike Mr. Calabrese's
8 testimony.

9 MS. KANE: Thank you, Your Honor.

10 JUDGE SIPPEL: As of right now, it is stricken. But it
11 is in the record. It will accompany your case throughout its
12 appeal life, if there is one.

13 MR. STENGER: And you're denying motion to strike their
14 two declarations, Enforcement Bureau Exhibits 49 and 50?

15 JUDGE SIPPEL: Absolutely. When I said no way, Jose,
16 that was a denial of it. Absolutely. Okay. Let's go.

17 MR. ENGEL: Your Honor, the Bureau calls Lee Pillar.

18 JUDGE SIPPEL: Mr. Pillar.

19 MR. ENGEL: The Bureau has no objection to any of the
20 past witnesses remaining in the courtroom. I don't know if any
21 other counsel has objections to that.

22 MR. STENGER: Yes, I have objections to any witnesses
23 being in the courtroom while other witnesses are testifying.

24 MR. KIRK: Your Honor, they've all already testified.
25 There's no prejudice.

1 MR. KELLER: Your Honor, also --

2 JUDGE SIPPEL: Mr. Pillar, you know, I'm sorry you had to
3 sit here and listen to all of this. Please raise your right hand.
4 Do you swear or affirm that the testimony you'll be giving in this
5 case will be the truth, the whole truth and nothing but the truth?

6 MR. PILLAR: I do.

7 JUDGE SIPPEL: Please be seated, now. You know, get
8 comfortable. Pour yourself a glass of water.

9 MR. PILLAR: All right.

10 JUDGE SIPPEL: Now, what's pending?

11 MR. KELLER: I just wanted to say that I had yesterday
12 said I was reserving the right to call Mr. Reardon, DePriest and
13 Smith as rebuttal witnesses.

14 JUDGE SIPPEL: Yes.

15 MR. KELLER: Since Mr. Calabrese's not testifying,
16 they're being released. They're not going to be testifying again.
17 So they're not any longer witnesses.

18 JUDGE SIPPEL: They're just here as --

19 MR. KELLER: They're just here. They've already
20 testified and they're not going to testify again.

21 JUDGE SIPPEL: Well, it's a public hearing and they can
22 come in and sit and watch. So what more do we have to talk about?

23 MR. STENGER: Are you asking me, Your Honor?

24 JUDGE SIPPEL: I'm looking at you.

25 MR. STENGER: I just -- I haven't said anything else.